

## BILL ANALYSIS

Senate Research Center

S.B. 403  
By: Cain  
Finance  
6-13-95  
Enrolled

### BACKGROUND

Currently, the \$200 annual professional license fee owed by attorneys is administered by the comptroller rather than the state bar. The comptroller has no authority to revoke a license for nonpayment; therefore, many attorneys ignore the fee and are delinquent.

### PURPOSE

As enrolled, S.B. 403 grants the state bar the authority to administer the collection of the attorney tax, and requires the state bar to suspend the license of anyone who does not pay the tax.

### RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is granted to the State Bar of Texas under SECTION 1 (Section 191.1443, Chapter 191H, Tax Code) of this bill.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 191H, Tax Code, as follows:

#### SUBCHAPTER H. ATTORNEYS

Sec. 191.141. DEFINITIONS. Defines "state bar."

Sec. 191.142. IMPOSITION AND RATE OF TAX. Makes no change.

Sec. 191.143. TIME FOR PAYMENT OF TAX. Makes no change.

Sec. 191.1431. METHOD OF COLLECTION. Requires the supreme court to administer the collection of taxes under this subchapter.

Sec. 191.144. EXEMPTIONS. Makes no change.

Sec. 191.1441. SUSPENSION AND REINSTATEMENT. (a) Requires the supreme court to suspend from the practice of law a person who does not pay, within 90 days after the due date, the tax or a relating penalty.

(b) Requires an attorney suspended under Subsection (a) to be reinstated on payment of the tax and any interest and penalties.

Sec. 191.1442. PENALTY AND INTEREST. (a) Requires a penalty of five percent of the tax due to be imposed on a person who fails to pay the tax or fails to file a report when due. Requires an additional five percent penalty to be imposed if the person fails to file the report or pay the tax within 30 days after the tax or report is due.

(b) Establishes the yearly interest rate on delinquent tax as 12 percent. Provides that delinquent taxes draw interest beginning 60 days from the due date.

(c) Authorizes the state bar to settle a claim for penalty or interest if the attorney exercised reasonable diligence in complying with the provisions of this subchapter.

Sec. 191.1443. RULES. Grants the state bar, with supreme court approval, the authority

to adopt policies and rules for the administration and collection of, and for exemptions from, the tax, and to compromise interest and penalties attributable to the tax imposed by this chapter.

Sec. 191.145. DISTRIBUTION OF TAX. Requires the supreme court to forward tax received to the state for deposit. Makes nonsubstantive changes.

SECTION 2. Provides that all forms and policies adopted by the comptroller for the administration of Chapter 191, Tax Code, in effect on the effective date of this Act, remain in effect until amended or repealed by the State Bar of Texas.

SECTION 3. Provides that liability accruing before the effective date of this Act continues in effect, and that the former law is continued in effect for the collection of taxes due as of the effective date and for enforcement of the liability for those taxes. Requires the comptroller, as soon as practicable on or after the effective date, to transfer all unpaid accounts and files to the State Bar of Texas.

SECTION 4. Provides that an attorney tax proceeding under Section 111.009 or 111.105, Tax Code, that is not final on the effective date of a transfer of functions under this Act remains under the jurisdiction of the comptroller as if this Act had not been enacted, and the former law is continued in effect until the proceeding is final.

SECTION 5. Effective date: June 1, 1995.

SECTION 6. Emergency clause.